



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB1641

Introduced 2/22/2007, by Rep. Elizabeth Hernandez

SYNOPSIS AS INTRODUCED:

725 ILCS 120/3	from Ch. 38, par. 1403
725 ILCS 120/4	from Ch. 38, par. 1404
725 ILCS 120/6	from Ch. 38, par. 1406

Amends the Rights of Crime Victims and Witnesses Act. Provides that "crime victim" includes both parents, legal guardians, and foster parents of a child killed as a result of a violent crime perpetrated against the child or both parents, legal guardians, and foster parents of a child victim who is physically or mentally incapable of exercising rights under the Act. Provides that the Act applies to proceedings under the Juvenile Court Act of 1987. Provides that a victim-witness specialist may be present at the court proceedings. Provides that support persons of the victim are subject to the admonition of the rules of confidentiality.

LRB095 06668 RLC 26778 b

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Rights of Crime Victims and Witnesses Act is
5 amended by changing Sections 3, 4, and 6 as follows:

6 (725 ILCS 120/3) (from Ch. 38, par. 1403)

7 Sec. 3. The terms used in this Act, unless the context
8 clearly requires otherwise, shall have the following meanings:

9 (a) "Crime victim" means (1) a person physically injured in
10 this State as a result of a violent crime perpetrated or
11 attempted against that person or (2) a person who suffers
12 injury to or loss of property as a result of a violent crime
13 perpetrated or attempted against that person or (3) both
14 parents, legal guardians, foster parents, or a single adult
15 representative who may be the spouse, parent, child or sibling
16 of a person killed as a result of a violent crime perpetrated
17 against the person killed or the spouse, parent, child or
18 sibling of any person granted rights under this Act who is
19 physically or mentally incapable of exercising such rights,
20 except where the spouse, parent, child or sibling is also the
21 defendant or prisoner or (4) any person against whom a violent
22 crime has been committed or (5) any person who has suffered
23 personal injury as a result of a violation of Section 11-501 of

1 the Illinois Vehicle Code, or of a similar provision of a local
2 ordinance, or of Section 9-3 of the Criminal Code of 1961, as
3 amended or (6) in proceedings under the Juvenile Court Act of
4 1987, both parents of a deceased minor who is a crime victim;

5 (b) "Witness" means any person who personally observed the
6 commission of a violent crime and who will testify on behalf of
7 the State of Illinois in the criminal prosecution of the
8 violent crime;

9 (c) "Violent Crime" means any felony in which force or
10 threat of force was used against the victim, or any offense
11 involving sexual exploitation, sexual conduct or sexual
12 penetration, domestic battery, violation of an order of
13 protection, stalking, or any misdemeanor which results in death
14 or great bodily harm to the victim or any violation of Section
15 9-3 of the Criminal Code of 1961, or Section 11-501 of the
16 Illinois Vehicle Code, or a similar provision of a local
17 ordinance, if the violation resulted in personal injury or
18 death, and includes any action committed by a juvenile that
19 would be a violent crime if committed by an adult. For the
20 purposes of this paragraph, "personal injury" shall include any
21 Type A injury as indicated on the traffic accident report
22 completed by a law enforcement officer that requires immediate
23 professional attention in either a doctor's office or medical
24 facility. A type A injury shall include severely bleeding
25 wounds, distorted extremities, and injuries that require the
26 injured party to be carried from the scene;

1 (d) "Sentencing Hearing" means any hearing where a sentence
2 is imposed by the court on a convicted defendant and includes
3 hearings conducted pursuant to Sections 5-6-4, 5-6-4.1, 5-7-2
4 and 5-7-7 of the Unified Code of Corrections except those cases
5 in which both parties have agreed to the imposition of a
6 specific sentence.

7 (e) "Court proceedings" includes the preliminary hearing,
8 any hearing the effect of which may be the release of the
9 defendant from custody or to alter the conditions of bond, the
10 trial, sentencing hearing, notice of appeal, any modification
11 of sentence, probation revocation hearings or parole hearings.
12 (Source: P.A. 94-271, eff. 1-1-06.)

13 (725 ILCS 120/4) (from Ch. 38, par. 1404)

14 Sec. 4. Rights of crime victims.

15 (a) Crime victims shall have the following rights:

16 (1) The right to be treated with fairness and respect
17 for their dignity and privacy throughout the criminal
18 justice process.

19 (2) The right to notification of court proceedings.

20 (3) The right to communicate with the prosecution.

21 (4) The right to make a statement to the court at
22 sentencing.

23 (5) The right to information about the conviction,
24 sentence, imprisonment and release of the accused.

25 (6) The right to the timely disposition of the case

1 following the arrest of the accused.

2 (7) The right to be reasonably protected from the
3 accused through the criminal justice process.

4 (8) The right to be present at the trial and all other
5 court proceedings on the same basis as the accused, unless
6 the victim is to testify and the court determines that the
7 victim's testimony would be materially affected if the
8 victim hears other testimony at the trial.

9 (9) the right to have present at all court proceedings,
10 including proceedings under the Juvenile Court Act of 1987,
11 subject to the admonition of the rules of confidentiality
12 and subject to the rules of evidence, a victim-witness
13 specialist, an advocate or other support person of the
14 victim's choice.

15 (10) The right to restitution.

16 (b) A statement and explanation of the rights of crime
17 victims set forth in paragraph (a) of this Section shall be
18 given to a crime victim at the initial contact with the
19 criminal justice system by the appropriate authorities and
20 shall be conspicuously posted in all court facilities.

21 (Source: P.A. 87-224; 88-489.)

22 (725 ILCS 120/6) (from Ch. 38, par. 1406)

23 Sec. 6. Rights to present victim impact statement.

24 (a) In any case where a defendant has been convicted of a
25 violent crime or a juvenile has been adjudicated a delinquent

1 for a violent crime and a victim of the violent crime or the
2 victim's spouse, guardian, parent, grandparent, or other
3 immediate family or household member is present in the
4 courtroom at the time of the sentencing or the disposition
5 hearing, the victim or his or her representative shall have the
6 right and the victim's spouse, guardian, parent, grandparent,
7 and other immediate family or household member upon his, her,
8 or their request may be permitted by the court to address the
9 court regarding the impact that the defendant's criminal
10 conduct or the juvenile's delinquent conduct has had upon them
11 and the victim. The court has discretion to determine the
12 number of oral presentations of victim impact statements. Any
13 impact statement must have been prepared in writing in
14 conjunction with the Office of the State's Attorney prior to
15 the initial hearing or sentencing, before it can be presented
16 orally or in writing at the sentencing hearing. In conjunction
17 with the Office of the State's Attorney, a victim impact
18 statement that is presented orally may be done so by the victim
19 or the victim's spouse, guardian, parent, grandparent, or other
20 immediate family or household member or his, her, or their
21 representative. At the sentencing hearing, the prosecution may
22 introduce that evidence either in its case in chief or in
23 rebuttal. The court shall consider any impact statement
24 admitted along with all other appropriate factors in
25 determining the sentence of the defendant or disposition of
26 such juvenile.

1 (b) The crime victim has the right to prepare a victim
2 impact statement and present it to the Office of the State's
3 Attorney at any time during the proceedings. Any written victim
4 impact statement submitted to the Office of the State's
5 Attorney shall be considered by the court during its
6 consideration of aggravation and mitigation in plea
7 proceedings under Supreme Court Rule 402.

8 (c) This Section shall apply to any victims of a violent
9 crime during any dispositional hearing under Section 5-705 of
10 the Juvenile Court Act of 1987 which takes place pursuant to an
11 adjudication or trial or plea of delinquency for any such
12 offense.

13 (Source: P.A. 92-412, eff. 1-1-02; 93-819, eff. 7-27-04.)